

“(B) ADMINISTRATIVE PROCEDURE.—Except as provided in subparagraph (A), the functions exercised under this section and section 236 shall not be subject to sections 551, 553 through 559, or 701 through 706 of title 5, United States Code.

“(C) MOVEMENT BETWEEN LISTS.—A foreign entity on the watch list required by subsection (b)(1) may be moved to the list required by subsection (a), pursuant to procedures established by the Secretary, on or after the date that is one year after being included on the watch list if the foreign entity is not able to reasonably demonstrate that it has entered into a patent license agreement or a binding arbitration agreement with each covered person that has made the demonstration described in subsection (b)(2) with respect to the entity.

“(d) REMOVAL FROM LISTS.—A foreign entity on the list required by subsection (a) or on the watch list required by subsection (b)(1) may petition the Secretary to be removed from that list on the basis that the conditions that led to the inclusion of the foreign entity on the list no longer exist. The burden of proof shall be on the foreign entity.

“(e) DEFINITIONS.—In this section:

“(1) AFFILIATE.—The term ‘affiliate’, with respect to an entity, means any entity that owns or controls, is owned or controlled by, or is under common ownership or control with, the entity.

“(2) COUNTRY OF CONCERN.—The term ‘country of concern’ means a country with respect to which the Secretary determines that—

“(A) persons in the country persistently use, without obtaining a license, patents—

“(i) essential to the implementation of wireless communications standards; and

“(ii) held by a covered person; and

“(B) that use of patents poses a threat to—

“(i) the ability of the United States to maintain a wireless communications research and development infrastructure; and

“(ii) the national security of the United States, pursuant to the policy set forth in section 234.

“(3) COVERED PERSON.—The term ‘covered person’ means—

“(A) a covered United States person; or

“(B) an affiliate of a covered United States person—

“(i) headquartered in, or organized under the laws of, a country that is a member of the European Union or the North Atlantic Treaty Organization; and

“(ii) engaged in wireless communications research and development.

“(4) COVERED UNITED STATES PERSON.—The term ‘covered United States person’ means a United States person engaged in wireless communications research and development in the United States.

“(5) PERSON OF CONCERN.—The term ‘person of concern’ means a person that is—

“(A) an individual who is a citizen or national (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))) of a country of concern; or

“(B) an entity that is headquartered in, or organized under the laws of, a country of concern.

“(6) UNITED STATES PERSON.—The term ‘United States person’ means—

“(A) an individual who is a United States citizen or an alien lawfully admitted for permanent residence to the United States;

“(B) an entity organized under the laws of the United States or any jurisdiction within the United States, including a foreign branch of such an entity; or

“(C) any person in the United States.

“(7) WIRELESS COMMUNICATIONS STANDARD.—The term ‘wireless communications standard’ means—

“(A) a cellular wireless telecommunications standard, including such a standard promulgated by the 3rd Generation Partnership Project (commonly known as ‘3GPP’) or the 3rd Generation Partnership Project 2 (commonly known as ‘3GPP2’); or

“(B) a wireless local area network standard, including such a standard designated as IEEE 802.11 as developed by the Institute of Electrical and Electronics Engineers (commonly known as the ‘IEEE’).

“SEC. 236. IMPORT SANCTIONS WITH RESPECT TO CERTAIN FOREIGN ENTITIES THAT THREATEN NATIONAL SECURITY.

“(a) IN GENERAL.—Any foreign entity on the list required by section 235(a) may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

“(b) ENTRY UNDER BOND.—

“(1) IN GENERAL.—Unless otherwise prescribed by the President, a product described in paragraph (2) may not enter the United States except under bond prescribed by the Secretary of Commerce in an amount determined by the Secretary to be sufficient to protect from injury a covered United States person that made the demonstration described in section 235(b)(2) with respect to the entity that has been selling the product directly or indirectly in or into the United States.

“(2) PRODUCTS DESCRIBED.—A product described in this paragraph is a wireless communications device—

“(A) produced or sold by—

“(i) a foreign entity on the watch list required by section 235(b);

“(ii) a successor of such an entity; or

“(iii) an affiliate of an entity described in clause (i) or (ii); and

“(B) that is claimed, labeled, marketed, or advertised as complying with a wireless communications standard that was the basis for the inclusion of the foreign entity on the watch list.

“(c) FORFEITURE OF BOND.—

“(1) IN GENERAL.—If a foreign entity on the watch list required by section 235(b) is moved to the list required by section 235(a) and becomes subject to controls under subsection (a), a bond paid under subsection (b) shall be forfeited to a covered United States person that made the demonstration described in section 235(b)(2) with respect to the entity.

“(2) TERMS AND CONDITIONS.—The Secretary of Commerce shall prescribe the procedures and any terms or conditions under which bonds will be forfeited under paragraph (1).

“(d) NON-INTEREST-BEARING BONDS.—A bond under this section shall be non-interest-bearing.

“(e) DEFINITIONS.—In this section, the terms ‘affiliate’ and ‘covered United States person’ have the meanings given those terms in section 235(d).”

(b) CONTROLS ON IMPORTS OF GOODS OR TECHNOLOGY AGAINST PERSONS THAT RAISE NATIONAL SECURITY CONCERNS.—Section 233 of the Trade Expansion Act of 1962 (19 U.S.C. 1864) is amended to read as follows:

“SEC. 233. IMPORT SANCTIONS FOR EXPORT VIOLATIONS.

“(a) IN GENERAL.—A person described in subsection (b) may be subject to such controls on the importing of goods or technology into the United States as the President may prescribe.

“(b) PERSONS DESCRIBED.—A person described in this subsection is a person that—

“(1) violates any national security export control imposed under section 1755 of the Export Control Reform Act of 2018 (50 U.S.C. 4814) or any regulation, order, or license issued under that section; or

“(2) raises a national security concern under—

“(A) section 235 or any regulation, order, or license issued under that section; or

“(B) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.) or any regulation, order, or license issued under that Act.”

SA 1933. Mrs. HYDE-SMITH submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle B of title VI of division B, insert the following:

SEC. 26. HYDROGEN RESEARCH AND DEVELOPMENT AND TESTING.

(a) IN GENERAL.—The Administrator shall fully leverage and use the unique hydrogen expertise, fuel farm, and testing platforms co-located with NASA large-scale rocket propulsion test facilities for testing federally funded programs or public-private partnerships involving the use of hydrogen in space exploration, space technology, and aeronautics.

(b) MAINTENANCE OF EXPERTISE.—

(1) IN GENERAL.—The Administrator shall maintain the hydrogen expertise, fuel farm, and testing platforms co-located with NASA large-scale rocket propulsion test facilities for the purpose of supporting ongoing activities associated with liquid oxygen-hydrogen rockets, including the Space Launch System and the Exploration Upper Stage for the Space Launch System.

(2) AVAILABILITY.—The Administrator shall make the expertise and infrastructure described in paragraph (1) available to Government and commercial vehicles that may benefit from testing at NASA hydrogen test facilities.

(c) TESTING CAPABILITIES AND PLATFORMS.—The Administrator shall consider investments in future testing capabilities and platforms to support a range of hydrogen systems in—

(1) space systems, including launch vehicles and spacecraft; and

(2) aeronautics research and development, including unmanned aircraft systems.

(d) RESEARCH AND DEVELOPMENT.—The Administrator, to the extent practicable, shall coordinate with research universities and other Federal agencies to incorporate hydrogen capabilities into research and development and testing road maps across programs.

(e) REPORT.—Not later than 180 days after the date of the enactment of this division, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report that—

(1) identifies all current and planned NASA-funded programs and public-private partnerships that involve the research, development, and testing of space exploration, space technology, and aeronautics systems using hydrogen, including propulsion systems, hydrogen fuel tanks, transfer systems, and integrated systems and vehicles;

(2) describes the manner in which each such program or partnership is currently, or may in the future, use NASA hydrogen research and development and testing capabilities; and

(3) identifies potential investments in facilities and capabilities that may enable current and future hydrogen research, development, and testing activities.

SA 1934. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V of division B, insert the following:

SEC. 2528. ASSESSMENT OF EXISTING LARGE POWER TRANSFORMERS.

The Secretary of Energy shall conduct an assessment of existing large power transformers in the United States, identify Government resources that could be leveraged to enhance the domestic manufacturing of large power transformers, and identify any authorities needed to provide such assistance.

SA 1935. Mr. PETERS submitted an amendment intended to be proposed to amendment SA 1502 proposed by Mr. SCHUMER to the bill S. 1260, to establish a new Directorate for Technology and Innovation in the National Science Foundation, to establish a regional technology hub program, to require a strategy and report on economic security, science, research, innovation, manufacturing, and job creation, to establish a critical supply chain resiliency program, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, on line 20, insert “Appointment as a program director under this section shall be voluntary, and the Director is not authorized to remove a program director during their appointed term unless for cause.” after “tor.”

Beginning on page 113, strike line 24 and all that follows through line 3 on page 115 and insert the following:

(3) DIRECT HIRE AUTHORITY.—

(A) **IN GENERAL.**—During fiscal year 2021 and any fiscal year thereafter, the head of any Federal agency may appoint, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303, 3304(b), and 3328 of that title, a qualified candidate described in subparagraph (B) directly to a position in the competitive service with the Federal agency for which the candidate meets Office of Personnel Management qualification standards.

(B) **FELLOWSHIP OR TEMPORARY ROTATIONAL POSTING.**—Subparagraph (A) applies with respect to a former recipient of an award under this subsection who—

(i) earned a doctoral degree in a STEM field from an institution of higher education; and

(ii) successfully fulfilled the requirements of the fellowship or temporary rotational posting within a Federal agency.

(C) **LIMITATION.**—The direct hire authority under this paragraph shall be exercised with respect to a specific qualified candidate not later than 2 years after the date that the

candidate completed the requirements related to the fellowship or temporary rotational posting described under this subsection.

(D) **NUMBER.**—The number of employees appointed and retained by the Federal Government under this paragraph shall not exceed 10 at any time.

Strike section 2204 and insert the following:

SEC. 2204. PERSONNEL MANAGEMENT AUTHORITIES FOR THE FOUNDATION.

(a) **STUDY.**—Not later than 30 days after the date of enactment of this division, the Director shall contract with the National Academy of Public Administration to conduct a study on the organizational and management structure of the Foundation, to—

(1) evaluate and make recommendations to efficiently and effectively implement the Directorate for Technology and Innovation;

(2) evaluate and make recommendations to ensure coordination of the Directorate for Technology and Innovation with other directorates and offices of the Foundation and other Federal agencies; and

(3) make recommendations for the management of the Foundation’s business and personnel practices, including implementation of the new hiring authorities and program director authorities provided in section 2103.

(b) **REVIEW.**—Upon completion of the study under paragraph (1), the Foundation shall review the recommendations from the National Academy of Public Administration and provide a briefing to Congress on the plans of the Foundation to implement any such recommendations.

Strike section 2665 and insert the following:

SEC. 2665. APPOINTMENT AND COMPENSATION PILOT PROGRAM.

(a) **DEFINITION OF COVERED PROVISIONS.**—In this section, the term “covered provisions” means the provisions of title 5, United States Code, other than—

- (1) section 2301 of that title;
- (2) section 2302 of that title;
- (3) chapter 33 of that title;
- (4) chapter 71 of that title;
- (5) chapter 72 of that title; and
- (6) chapter 73 of that title.

(b) **ESTABLISHMENT.**—There is established a 3-year pilot program under which, notwithstanding section 20113 of title 51, United States Code, the Administrator may, with respect to not more than 3,000 designated personnel—

(1) appoint and manage such designated personnel of the Administration, without regard to the covered provisions; and

(2) fix the compensation of such designated personnel of the Administration, without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, at a rate that does not exceed the per annum rate of salary of the Vice President of the United States under section 104 of title 3, United States Code.

(c) **ADMINISTRATOR RESPONSIBILITIES.**—In carrying out the pilot program established under subsection (b), the Administrator shall ensure that the pilot program—

(1) uses—

(A) state-of-the-art recruitment techniques;

(B) simplified classification methods with respect to personnel of the Administration; and

(C) broad banding; and

(2) offers—

(A) competitive compensation; and

(B) the opportunity for career mobility.

(d) **REPORT.**—Not later than 2 years after the date of the enactment of this division, the Administrator shall submit to the appropriate committees of Congress a report that—

(1) describes in detail—

(A) the use of the pilot program hiring authority under this section, including pay, qualifications, and classification of individuals hired under such authority;

(B) the methods for recruitment under the program; and

(C) efforts being made by the NASA to address any compensation equity issue that may arise as a result of the program;

(2) analyzes the impact of the program on participants, disaggregated by demographic factors including age, race, ethnicity, gender, education, compensation, and job classification;

(3) compares the demographics of the program participants with the demographics of NASA employees outside the program;

(4) assesses the morale and engagement of the NASA workforce participating in the program, as compared to the morale and engagement of the NASA workforce outside the program; and

(5) makes recommendations with respect to the continuation, modification, or permanent codification of the program.

Strike section 2669 and insert the following:

SEC. 2669. SEPARATIONS AND RETIREMENT INCENTIVES.

(a) **VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**—

Subchapter II of chapter 35 of title 5, United States Code, is amended—

(1) in section 3521—

(A) by striking paragraph (1) and inserting the following:

“(1) ‘agency’—

“(A) means an Executive agency as defined under section 105 (other than the Government Accountability Office); and

“(B) includes the National Aeronautics and Space Administration; and”;

(B) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking “and” at the end;

(ii) in subparagraph (B)(vi)(III), by striking the period at the end and inserting “; and”;

and

(iii) by adding at the end the following:

“(C) shall include an employee of the National Aeronautics and Space Administration appointed in accordance with paragraph (1) or (2) of section 20113(b) of title 51, without regard to any other provision of such section 20113(b).”;

(2) in section 3523(b)(3)(B), by inserting “(or, during the 7-year period beginning on the date of enactment of the United States Innovation and Competition Act of 2021, with respect to an employee of the National Aeronautics and Space Administration, including an employee described in section 3521(2)(C), not to exceed \$40,000)” after “\$25,000”.

(b) **EARLY RETIREMENT.**—Title 5, United States Code, is amended—

(1) in section 8336(d), in the matter preceding paragraph (1), by inserting “(including, for the purposes of paragraph (2), an employee of the National Aeronautics and Space Administration appointed in accordance with paragraph (1) or (2) of section 20113(b) of title 51, without regard to any other provision of such section 20113(b))” after “An employee”; and

(2) in section 8414(b)(1), in the matter preceding subparagraph (A), by inserting “(including, for the purposes of subparagraph (B), an employee of the National Aeronautics and Space Administration appointed in accordance with paragraph (1) or (2) of section 20113(b) of title 51, without regard to any other provision of such section 20113(b))” after “an employee”.

SA 1936. Mr. SULLIVAN (for himself, Mr. RUBIO, and Mr. INHOFE) submitted